IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Crl. Revision No.208 of 2002
Decided on 16.3.2009.

Daljit Singh @ Dalla Versus State of Punjab

Present : Mr. H.S.Rakhra, Advocate, Amicus Curiae,
for the petitioner.
Mr. Jaspreet Singh, A.A.G., Punjab.

L.N.MITTAL,J. (Oral)

This is revision petition by Daljit Singh, who stands convicted and sentenced by learned Judicial Magistrate Ist Class, Roopnagar vide judgment and order dated 25.11.1998 as affirmed in appeal by learned Additional Sessions Judge, Roopnagar vide judgment dated 23.1.2002. The petitioner stands convicted and sentenced as under :-

i)Under Section 279 IPC To undergo RI for three months, to pay fine of Rs.100/- in default to pay fine to further undergo RI for 15 days.

(iii)Under Section 304-A IPC To undergo RI for one year, to pay fine of Rs.500/- in default to pay fine to further undergo RI for one month.

Both the sentences were ordered to run concurrently.

Prosecution case is that on 22.6.1997 Nachattar Singh

complainant witnessed the accident caused by a truck being driven rashly and negligently and hitting a scooter with two riders namely Avtar Singh and Devinder Singh. Both of them fell on the road whereas the scooter was dragged to a distance of 8-10 karams. Avtar Singh succumbed to his injuries on the same day and Devinder Singh succumbed to his injuries on 25.6.1997. Nachattar Singh lodged FIR, stating that the accident was caused due to rash and negligent driving of the truck but he could not see registration number of the truck because the driver fled away with the truck after causing the accident. However, on 22.6.1997 itself, one Parveen Kumar witness made statement to the police that he and Bahadur Singh while going on a scooter had witnessed the aforesaid accident, which was caused by truck No.PAT 9323 being driven rashly and negligently by Daljit Singh-petitioner. These two witnesses, on their scooter, even chased the aforesaid truck which, however, escaped. Bahadur Singh also made similar statement during investigation. On completion of investigation, the petitioner was sent for trial.

Prosecution in support of its case, examined nine witnesses. Nachattar Singh complainant stated about the accident as per version contained in the FIR lodged by him without mentioning the registration number of the offending truck or the name of its driver. However, Parveen Kumar (PW-4) and Bahadur Singh (PW-5) deposed that the petitioner by driving the aforesaid truck rashly and negligently caused the aforesaid accident and they even chased the truck after accident. They identified the petitioner in the Court to be the driver of the offending truck. Dr.Neeraj

Gupta (PW-1) and Dr.Surjit Singh (PW-7) stated about post mortem examinations of Avtar Singh and Devinder Singh respectively. ASI Sucha Singh (PW-9) stated about investigation of the case.

The petitioner, in his examination under Section 313 of the Code of Criminal Procedure (in short – Cr.P.C.) denied all the incriminating circumstances appearing against him in the prosecution evidence and claimed to be innocent. He alleged that on 22.6.1997 after loading cement from Ambuja Factory, Ropar he had gone to Sidhwan Bet and after un-loading the cement, he started back from there at about 1'o clock and reached his village at about 6 o'clock and the accident was not caused by him. In defence, he examined Jaswinder Singh (DW-1) and Nirbhai Singh (DW-2), who supported his version.

I have heard learned counsel for the parties and perused the file.

Both the Courts below on appreciation of evidence have concurrently recorded a finding of guilt against the petitioner. The said finding is neither perverse nor illegal so as to warrant interference in exercise of revisional jurisdiction. Parveen Kumar and Bahadur Singh are independent eye-witnesses. There is no reason for discarding their statements. Statement of Parveen Kumar under Section 161 Cr.P.C. was recorded on the date of accident itself and in that statement he also mentioned the name of Bahadur Singh being the eye-witness along with him on the same scooter. Both of them even chased the offending truck. Registration number of the offending truck as well as name of its driver

being Daljit Singh was mentioned in the said statement of Parveen Kumar. Statements of both these eye witnesses are cogent and credible. They identified the petitioner in the Court also to be driver of the offending truck at the time of accident.

Learned counsel for the petitioner vehemently contended that Nachattar Singh complainant, has neither stated the registration number of the offending truck nor identified the petitioner to be driver thereof. However, he mentioned in the FIR itself that he had not seen registration number of the offending truck being at some distance. However, Parveen Kumar and Bahadur Singh have stated the number of the offending truck as well as the petitioner being driver thereof at the time of accident. Learned counsel for the petitioner vehemently contended that both these witnesses were introduced later on and Parveen Kumar stated in cross-examination that he had not made any statement to the police whereas Bahadur Singh has made some improvements in his statement in the Court over his statement made to the police. However, statements of these two witnesses cannot be discarded merely on the basis of these contentions. On the basis of statement made by Parveen Kumar, the petitioner was arrested and it shows that such a statement had been made by Parveen Kumar. ASI Sucha Singh also stated that he had recorded statement of Parveen Kumar on 22.6.1997 itself. As regards alleged improvements in the testimony of Bahadur Singh, he could not be expected to make a parrot like statement. There is no material improvement in his statement in Court from his statement made to the police.

Defence evidence also corroborates the prosecution case. It is petitioner's own version that he was driver of truck No.PAT-9323 on the date of accident. Jaswinder Singh (DW-1) stated that on 22.6.1997, 300 bags of cement were received in the store. However, in the relevant entry, neither registration number of the truck nor name of its driver had been mentioned. Nirbhai Singh (DW-2) stated that the cement bags were loaded in truck No.PAT-9323 for 21.6.1997 and the same were delivered in the store on 22.6.1997 vide entry Ex.D-3 which reveals that the truck was unloaded at 12-15 a.m. and thereafter the petitioner was driving the truck back from Sidhwan Bet to Ropar and it appears that the accident took place during the said journey on 22.6.1997 at about 2.00p.m. It is thus manifest that the prosecution evidence is sufficient to bring home the charge against the petitioner beyond reasonable doubt and the defence evidence also supports the prosecution version. In any event, the defence evidence does not go against the prosecution version in any manner.

In view of the aforesaid, I find no infirmity in finding of conviction recorded by both the Courts below. Accordingly, the conviction of the petitioner is affirmed.

Learned counsel for the petitioner also submitted that sentence of the petitioner be reduced because the accident took place about twelve years ago. However, I find no merit in this contention because hands of the petitioner on the steering wheel of the truck pre-maturely snatched the lives of two persons. Sentence of imprisonment for one year for offence under Section 304-A of the Indian Penal Code in such a case cannot be said to be

excessive by any standard and the said sentence, therefore, does not warrant any reduction.

For the reasons recorded hereinabove, I find no merit in the instant revision petition and the same is accordingly dismissed.

The petitioner, who is on bail, shall surrender to his bail bonds or shall be arrested to undergo the remaining part of his sentence.

(L.N. MITTAL)
JUDGE

March 16, 2009
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